



[7590-01-P]

**NUCLEAR REGULATORY COMMISSION**

**[Docket Nos. 52-012 and 52-013; NRC-2008-0091]**

**Nuclear Innovation North America, LLC**

**South Texas Project, Units 3 and 4**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Termination of licenses.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is terminating the South Texas Project (STP) Units 3 and 4 Combined Licenses (COLs) designated as NPF-97 and NPF-98, and their included licenses to manufacture, produce, transfer, receive, acquire, own, possess, or use byproduct material. By letter dated June 22, 2018, Nuclear Innovation North America, LLC (NINA) requested that the NRC terminate the STP Units 3 and 4 COLs. Construction was not initiated for STP Units 3 and 4, and nuclear materials were never procured or possessed under these licenses. Consequently, the STP Units 3 and 4 site is approved for unrestricted use.

**DATES:** The termination was issued on July 13, 2018.

**ADDRESSES:** Please refer to Docket ID NRC-2008-0091 when contacting the NRC about the availability of information regarding this document. You may obtain

publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2008-0091. Address questions about NRC dockets to Jennifer Borges, telephone: 301-287-9127; e-mail: [Jennifer.Borges@nrc.gov](mailto:Jennifer.Borges@nrc.gov). For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdresource@nrc.gov](mailto:pdresource@nrc.gov). The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** James Shea, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-1388, e-mail: [James.Shea@nrc.gov](mailto:James.Shea@nrc.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

The NRC issued STP Units 3 and 4 COLs, NPF-97 and NPF-98, to NINA and its co-applicants STP Nuclear Operating Company, NINA Texas 3 LLC, NINA Texas 4 LLC, and the City of San Antonio, Texas, acting by and through the City Public Service Board, for the STP Units 3 and 4 on February 12, 2016 (ADAMS Accession No. ML16033A010). Since issuance of the licenses, NINA has not begun construction of Units 3 and 4 or procured nuclear materials for use under the licenses. In NINA's letter dated June 14, 2018 (ADAMS Accession No. ML18176A019), NINA informed the NRC that it no longer plans to move forward with building STP Units 3 and 4 and would consequently submit an application for termination of the licenses. By subsequent letter dated June 22, 2018 (ADAMS Accession No. ML18184A338), NINA requested termination of COLs NPF-97 and NPF-98 and their included title 10 of the *Code of Federal Regulations* (10 CFR) parts 30, 40, and 70 licenses for STP Units 3 and 4.

### **II. License Termination**

Termination of COLs issued under 10 CFR part 52 is controlled by 10 CFR 52.110, "Termination of license." As discussed in "Current NRC Staff Views on Applying the 1987 Policy Statement on Deferred Plants" (ADAMS Accession No. ML18065B257), the NRC staff does not apply the requirements for termination in 10 CFR 52.110 to plants that have not begun operation. Requirements for termination of

the included licenses under sections 30.36, 40.42, and 70.38 of 10 CFR include the submission of NRC Form 314 or equivalent information. The staff finds that NINA met these requirements through the information provided as part of its June 22, 2018, submission.

Further, as there was no construction associated with the STP Unit 3 and 4 licenses and nuclear materials have never been procured or possessed under these licenses, there is no need for a site radiation survey to be conducted under 10 CFR parts 30, 40, or 70. With no radiological contamination associated with the licenses, the STP Unit 3 and 4 site may be released for unrestricted use pursuant to 10 CFR 20.1402.

### **III. Environmental Review**

NINA seeks to terminate the STP Unit 3 and 4 COLs for which construction never commenced and nuclear material was never procured or brought onsite. Terminating a COL is a licensing action that would ordinarily require an environmental assessment under 10 CFR 51.21, unless a categorical exclusion in 10 CFR 51.22(c) applies and no special circumstances under 10 CFR 51.22(b) exist. Actions listed in 10 CFR 51.22(c) were previously found by the Commission to be part of a category of actions that “does not individually or cumulatively have a significant effect on the human environment.”

The categorical exclusion identified in 51.22(c)(20) includes:

Decommissioning of sites where licensed operations have been limited to the use of –

- (i) Small quantities of short-lived radioactive materials;
- (ii) Radioactive materials in sealed sources, provided there is no evidence of leakage of radioactive material from these sealed sources; or
- (iii) Radioactive materials in such a manner that a decommissioning plan is not required by 10 CFR 30.36(g)(1), 40.42(g)(1), or 70.38(g)(1) and the NRC has determined that the facility meets the radiological criteria for unrestricted use in 10 CFR 20.1402 without further remediation or analysis.

This categorical exclusion captures decommissioning activities at sites where contamination from radioactive material is determined to be nominal. In the case of STP Units 3 and 4, no associated radiological contamination exists because construction never commenced and nuclear material was never procured or brought on site. As a result, a decommissioning plan for this site is not required by 10 CFR 30.36(g)(1), 40.42(g)(1), or 70.38(g)(1), and the site meets the radiological criteria for unrestricted use in 10 CFR 20.1402 without further remediation or analysis. Further, no special circumstances under 10 CFR 51.22(b) apply. The factors listed in 10 CFR 51.22(c)(20) are consistent with the circumstances here because there is no environmental impact associated with the STP Unit 3 and 4 COLs, which is even less than the nominal impacts anticipated by the categorical exclusion. Therefore, application of the categorical exclusion to the termination of the STP Units 3 and 4 COLs is warranted. Consequently, in accordance with 10 CFR 51.21, an environmental assessment is not required for the termination of COLs NPF-97 and NPF-98 and their included 10 CFR parts 30, 40, and 70 licenses.

#### **IV. Conclusion**

As discussed above, the Commission has determined that the STP Unit 3 and 4 COL termination request meets the categorical exclusion criteria set forth in 10 CFR 51.22(c)(20) and that the unrestricted use criteria pursuant to 10 CFR 20.1402 are met. The Commission grants NINA's request to terminate the COLs designated as NPF-97 and NPF-98 and their included 10 CFR parts 30, 40, and 70 licenses for STP Unit 3 and 4. This license termination was effective upon NINA's receipt of NRC's termination letter, dated July 12, 2018 (ADAMS Accession No. ML18179A217).

Dated at Rockville, Maryland, this 13th day of July, 2018.

For the Nuclear Regulatory Commission.

Allen H. Fetter, Acting Chief,  
Licensing Branch 3,  
Division of Licensing, Siting, and  
Environmental Analysis  
Office of New Reactors.

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